

SENATE BILL 7098

By Yarbro

AN ACT to amend Tennessee Code Annotated, Title 33, Chapter 3 and Title 49, Chapter 6, relative to school safety.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act is known and may be cited as the "School Safety Protection Order Act of 2023."

SECTION 2. Tennessee Code Annotated, Title 33, Chapter 3, Part 2, is amended by adding the following as a new section:

(a) If a service recipient has communicated a threat of violence or potential violence against a student, teacher, or school to a qualified health professional, and the professional, using the reasonable skill, knowledge, and care ordinarily possessed and exercised by such professionals under similar circumstances, has determined, or reasonably should have determined, that the service recipient has the apparent ability to carry out the school safety threat unless prevented from doing so, the professional shall take reasonable care to predict, warn, or take other precautions to protect students, teachers, or schools from violent conduct by the service recipient.

(b) The professional shall, when warranted in the professional's opinion, report the school safety threat to the threat assessment team, as described in § 49-6-2701, for the respective local education agency, or to an equivalent threat assessment team if the school safety threat concerns a charter school or private school.

(c) Notwithstanding another law to the contrary, a report of a potential school safety threat made pursuant to subsection (b) is not open for public inspection consistent with § 49-6-2701(f) and must remain confidential except as provided in § 49-6-2702(d).

SECTION 3. Tennessee Code Annotated, Section 49-6-2701, is amended by adding the following as a new subsection:

(g) Private schools and public charter schools may adopt policies governing their participation in LEA threat assessment teams and safety officials for the respective private school or public charter school may work in conjunction with an LEA's threat assessment team. Any such officials are subject to the requirements of this part and applicable LEA policies adopted pursuant to subsection (a).

SECTION 4. Tennessee Code Annotated, Section 49-6-2702, is amended by adding the following as a new subsection:

(e) Notwithstanding another law to the contrary, information related to an adult obtained pursuant to this part may be reported to law enforcement for purposes of seeking a school safety protection order pursuant to § 49-6-2704. Disclosure under this subsection (e) must comply with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g); § 10-7-504; the Data Accessibility, Transparency, and Accountability Act, compiled in chapter 1, part 7 of this title; and all other relevant privacy laws.

SECTION 5. Tennessee Code Annotated, Title 49, Chapter 6, Part 27, is amended by adding the following new sections.

**49-6-2704. School safety protection orders.**

(a) If an LEA threat assessment team determines that a student, staff member, or other person is engaged in threatening or dangerous behavior that constitutes a significant threat to the safety of students within the LEA, then the threat assessment team shall report the threat to local law enforcement for purposes of obtaining a school safety protection order.

(b) A petition for a school safety protection order:

(1) May be filed by a law enforcement officer or law enforcement agency;

(2) Must:

(A) Be filed in the county where the petitioner has jurisdiction or the county where the respondent resides;

(B) Allege that the respondent poses a significant danger of causing personal injury to any student, staff member, or school within the LEA by having a firearm or any ammunition in the respondent's custody or control or by purchasing, possessing, or receiving a firearm or any ammunition;

(C) Be accompanied by an affidavit made under oath stating the specific statements, actions, or facts that give rise to a reasonable fear of significant dangerous acts by the respondent;

(D) Identify whether there is a known existing protection order governing the respondent under title 36, chapter 3, part 6 or under any other applicable statute; and

(E) Include a physical description of the respondent and the respondent's last known location.

(c) The circuit courts of this state have jurisdiction over proceedings related to adults under this section. The juvenile courts of this state have jurisdiction over proceedings related to juveniles under this section.

(d)

(1) Upon receipt of a petition, the court must order a hearing to be held no later than fourteen (14) days after the date the petition is filed and must issue a notice of hearing to the respondent.

(2) The clerk of the court shall cause a copy of the notice of hearing and petition to be forwarded on or before the next business day to the appropriate law enforcement agency for service upon the respondent as provided in subsection (m).

(3) The court may, as provided in subsection (l), issue a temporary ex parte school safety protection order pending the hearing ordered under this subsection (d). A temporary ex parte order must be served concurrently with the notice of hearing and petition as provided in subsection (l).

(e) Upon notice and a hearing, if the court finds by clear and convincing evidence that the respondent poses a significant danger of causing personal injury to the respondent or others by having in the respondent's custody or control, or by purchasing, possessing, or receiving, a firearm or any ammunition, then the court shall issue a school safety protection order for an appropriate period of up to twelve (12) months.

(f) In determining whether grounds for a school safety protection order exist, the court may consider any relevant evidence, including, but not limited to, the following:

(1) A recent act or threat of violence by the respondent against the respondent's self or others, whether or not the violence or threat of violence involves a firearm;

(2) An act or threat of violence by the respondent within the past twelve (12) months, including, but not limited to, acts or threats of violence by the respondent against the respondent's self or others;

(3) Evidence of the respondent being seriously mentally ill or having recurring mental health issues;

(4) A violation by the respondent of an order of protection issued pursuant to title 36, chapter 3, part 6;

- (5) A previous or existing protection order issued against the respondent;
- (6) A violation of a previous or existing protection order issued against the respondent;
- (7) Whether the respondent, in this state or in another state, has been convicted of, had adjudication withheld on, or pled nolo contendere to a crime involving domestic abuse, as defined in § 36-3-601;
- (8) Whether the respondent has used or threatened to use, against the respondent's self or others, any weapons;
- (9) The unlawful or reckless use, display, or brandishing of a firearm by the respondent;
- (10) The recurring use of, or threat to use, physical force by the respondent against another person or evidence of the respondent stalking another person;
- (11) Whether the respondent, in this state or in another state, has been arrested for, convicted of, had adjudication withheld on, or pled nolo contendere to a crime involving violence or a threat of violence;
- (12) Corroborated evidence of the abuse of controlled substances or alcohol by the respondent;
- (13) Evidence of recent acquisition of firearms or ammunition by the respondent;
- (14) Any relevant information from family and household members concerning the respondent; and
- (15) Witness testimony, taken while the witness is under oath, relating to the matter before the court.

(g) A person, including an officer of the court, who offers evidence or recommendations relating to the petition shall:

(1) Present the evidence or recommendations in writing to the court with copies to each party and the party's attorney, if retained; or

(2) Present the evidence under oath at a hearing at which all parties are present.

(h) During the hearing, the court shall consider whether a mental health evaluation or substance abuse assessment is appropriate and may order such evaluations if appropriate.

(i) A school safety protection order must include the following:

(1) A statement of the grounds supporting the issuance of the order;

(2) The date the order was issued;

(3) The date the order ends;

(4) Whether a mental health evaluation or substance abuse assessment of the respondent is required;

(5) The address of the court in which any responsive pleading should be filed; and

(6) A description of the requirements for the surrender of all firearms and ammunition that the respondent owns under § 49-6-2705.

(j) If the court issues a school safety protection order, then the court must inform the respondent that the respondent is entitled to request a hearing to vacate the order in the manner provided by subsection (n). The court shall provide the respondent with a form to request a hearing to vacate.

(k) If the court denies the petitioner's request for a school safety protection order, then the court must issue a written order stating the particular reasons for the denial.

(l)

(1) A petitioner may request that a temporary ex parte school safety protection order be issued before a hearing for a school safety protection order and without notice to the respondent, by including in the petition detailed allegations based on personal knowledge that the respondent poses a significant danger of causing personal injury to the respondent's self or others in the near future by having in the respondent's custody or control, or by purchasing, possessing, or receiving, a firearm or ammunition.

(2) In considering whether to issue a temporary ex parte school safety protection order under this subsection (l), the court shall consider all relevant evidence, including the evidence described in subsection (f).

(3) If a court finds there is reasonable cause to believe that the respondent poses a significant danger of causing personal injury to the respondent's self or others in the near future by having in the respondent's custody or control, or by purchasing, possessing, or receiving a firearm or ammunition, then the court shall issue a temporary ex parte school safety protection order.

(4) The court shall hold a temporary ex parte school safety protection order hearing in person or by telephone on the day the petition is filed or the next business day.

(5) A temporary ex parte school safety protection order must include the following:

(A) A statement of the grounds asserted for the order;

(B) The date the order was issued;

(C) The address of the court in which any responsive pleading may be filed;

(D) The date and time of the scheduled hearing;

(E) A description of the requirements for the surrender of all firearms and ammunition that the respondent owns, pursuant to § 49-6-2705; and

(F) The following statement: To the subject of this protection order: This order is valid until the date noted above. You are required to surrender all firearms and ammunition that you own or have in your custody, control, or possession. You may not have in your custody or control, or purchase, possess, receive, or attempt to purchase or receive, a firearm or ammunition while this order is in effect. You must surrender immediately to the (insert name of local law enforcement agency) all firearms and ammunition in your custody, control, or possession and any license to carry a handgun issued to you under Tennessee Code Annotated, § 39-17-1351 or § 39-17-1366. A hearing will be held on the date and at the time noted above to determine if a school safety protection order should be issued. Failure to appear at that hearing may result in a court issuing an order against you which is valid for one (1) year. You may seek the advice of an attorney as to any matter connected with this order.

(6) A temporary ex parte school safety protection order expires upon the hearing on the school safety protection order.

(7) A temporary ex parte school safety protection order must be served by a law enforcement officer in the same manner as provided for in subsection

(m) for service of the notice of hearing and petition and must be served concurrently with the notice of hearing and petition.

(8) If the court denies the petitioner's request for a temporary ex parte school safety protection order, then the court shall issue a written order stating the particular reasons for the denial.

(m)

(1) The clerk of the court shall furnish a copy of the notice of hearing, petition, and temporary ex parte school safety protection order or school safety protection order, as applicable, to the sheriff of the county where the respondent resides or can be found, who shall serve it upon the respondent as soon as possible on any day of the week and at any time of the day or night. When requested by the sheriff, the clerk of the court may transmit a facsimile copy of a temporary ex parte school safety protection order or a school safety protection order that has been certified by the clerk of the court, and this facsimile copy may be served in the same manner as a certified copy. Upon receiving a facsimile copy, the sheriff shall verify receipt with the sender before attempting to serve it upon the respondent. The clerk of the court is responsible for furnishing to the sheriff information on the respondent's physical description and location. Service under this subsection (m) takes precedence over the service of other documents, unless the other documents are of a similar emergency nature.

(2) All orders issued, changed, continued, extended, or vacated after the original service of documents pursuant to subdivision (m)(1) must be certified by the clerk of the court and delivered to the parties at the time of the entry of the order. The parties may acknowledge receipt of such order in writing on the face of the original order. If a party fails or refuses to acknowledge the receipt of a

certified copy of an order, then the clerk shall note on the original order that service was effected. If delivery at the hearing is not possible, then the clerk shall mail certified copies of the order to the parties at the last known address of each party. Service by mail is complete upon mailing. When an order is served pursuant to this subdivision (m)(2), the clerk shall prepare a written certification to be placed in the court file specifying the time, date, and method of service and shall notify the sheriff.

(n)

(1) The respondent may submit one (1) written request for a hearing to vacate a school safety protection order issued under this section, starting after the date of the issuance of the order, and may request another hearing after every extension of the order, if any.

(2) Upon receipt of the request for a hearing to vacate a school safety protection order, the court shall set a date for a hearing. Notice of the request and hearing must be served on the petitioner in accordance with subsection (m). The hearing must occur no sooner than fourteen (14) days and no later than thirty (30) days after the date of service of the request upon the petitioner.

(3) The respondent has the burden of proving by clear and convincing evidence that the respondent does not pose a significant danger of causing personal injury to the respondent or others by having in the respondent's custody or control, purchasing, possessing, or receiving a firearm or ammunition. The court may consider any relevant evidence, including the evidence described in subsection (f).

(4) If the court finds after the hearing that the respondent has met the burden of proof, then the court must vacate the order.

(5) The clerk of the court shall notify the law enforcement agency holding any firearm or ammunition or handgun carry permit that has been surrendered pursuant to § 49-6-2705 of the court order to vacate the school safety protection order.

(o) The court shall notify the petitioner of the impending end of a school safety protection order. Notice must be received by the petitioner at least thirty (30) days before the date the order ends.

(p)

(1) The petitioner may, by motion, request an extension of a school safety protection order at any time within thirty (30) days before the end of the order.

(2) Upon receipt of the motion to extend, the court shall order that a hearing be held no later than fourteen (14) days after receipt of the motion and shall schedule such hearing; provided, that if the motion to extend is filed within fourteen (14) days of the date the school safety protection order is due to expire, then the court shall also order a temporary extension of the school safety protection order to coincide with the date of the hearing. The respondent must be personally served in the same manner provided by subsection (m).

(3) In determining whether to extend a school safety protection order issued under this section, the court may consider all relevant evidence, including the evidence described in subsection (f).

(4) If the court finds by clear and convincing evidence that the requirements for issuance of a school safety protection order as provided in this section continue to be met, then the court must extend the order. However, if, after notice to the respondent, the motion for extension is uncontested and no

modification of the order is sought, then the order may be extended on the basis of a motion or affidavit stating that there has been no material change in relevant circumstances since entry of the order and stating the reason for the requested extension.

(5) The court may extend a school safety protection order for a period that it deems appropriate, up to twelve (12) months.

**49-6-2705. Surrender of firearms upon the issuance of a protection order.**

(a) Upon issuance of a school safety protection order pursuant to § 49-6-2704, including a temporary ex parte school safety protection order, the court shall order the respondent to surrender to the local law enforcement agency all firearms and ammunition owned by the respondent or in the respondent's custody, control, or possession, and any handgun carry permit issued under § 39-17-1351 or § 39-17-1366, held by the respondent.

(b) The law enforcement officer serving a school safety protection order issued pursuant to § 49-6-2704, including a temporary ex parte school safety protection order, shall request that the respondent immediately surrender all firearms and ammunition owned by the respondent or in the respondent's custody, control, or possession and any handgun carry permit issued under § 39-17-1351 or § 39-17-1366, held by the respondent. The law enforcement officer shall take possession of all firearms and ammunition owned by the respondent or in the respondent's custody, control, or possession and any handgun carry permit issued under § 39-17-1351 or § 39-17-1366, held by the respondent, which are surrendered. Alternatively, if personal service by a law enforcement officer is not possible or is not required because the respondent was present at the school safety protection order hearing, then the respondent must surrender any firearms and ammunition owned by the respondent or in the respondent's

custody, control, or possession and any handgun carry permit issued under § 39-17-1351 or § 39-17-1366, held by the respondent, in a safe manner to the control of the local law enforcement agency immediately after being served with the order by service or immediately after the hearing at which the respondent was present. A law enforcement officer may seek a search warrant from a court of competent jurisdiction to conduct a search for firearms or ammunition owned or held by the respondent if the officer has probable cause to believe that there are firearms or ammunition in the respondent's custody, control, or possession that have not been surrendered.

(c) At the time of surrender, a law enforcement officer taking possession of any firearm or ammunition owned by the respondent or in the respondent's custody, control, or possession, or any handgun carry permit issued under § 39-17-1351 or § 39-17-1366, held by the respondent shall issue a receipt identifying all firearms and the quantity and type of ammunition that have been surrendered, and any permit surrendered, and shall provide a copy of the receipt to the respondent. Within seventy-two (72) hours after service of the order, the law enforcement officer serving the order shall file the original receipt with the court and shall ensure that the officer's law enforcement agency retains a copy of the receipt.

(d) Upon the sworn statement or testimony of any person alleging that the respondent has failed to comply with the surrender of firearms or ammunition as required by an order issued pursuant to § 49-6-2704, the court shall determine whether probable cause exists to believe that the respondent has failed to surrender all firearms or ammunition owned by the respondent or in the respondent's custody, control, or possession. If the court finds that probable cause exists, then the court must issue a warrant describing the firearms or ammunition owned or possessed by the respondent and authorizing a search of the locations where the firearms or ammunition owned or

possessed by the respondent are reasonably believed to be found and the seizure of any firearms or ammunition owned or possessed by the respondent discovered pursuant to the search.

(e) If a person other than the respondent claims title to any firearms or ammunition surrendered pursuant to this section and the person is determined by the law enforcement agency to be the lawful owner of the firearm or ammunition, then the firearm or ammunition must be returned to the person, if:

(1) The lawful owner agrees to store the firearm or ammunition in a manner such that the respondent does not have access to or control of the firearm or ammunition; and

(2) The firearm or ammunition is not otherwise unlawfully possessed by the owner.

(f) Upon the issuance of a school safety protection order, the court shall order a new hearing date and require the respondent to appear no later than three (3) business days after the issuance of the order. At the hearing, the court shall require proof that the respondent has surrendered any firearms or ammunition owned by the respondent or in the respondent's custody, control, or possession. The court may cancel the hearing upon a satisfactory showing that the respondent is in compliance with the order.

(g) All law enforcement agencies must develop policies and procedures regarding the acceptance, storage, and return of firearms, ammunition, or licenses required to be surrendered under this section.

**49-6-2706. Return of firearms when a protection order is vacated or expires.**

(a) If a school safety protection order issued pursuant to § 49-6-2704 is vacated or ends without extension, then a law enforcement agency holding a firearm or any ammunition owned by the respondent or any handgun carry permit issued under § 39-

17-1351 or § 39-17-1366, held by the respondent, that has been surrendered or seized pursuant to a school safety protection order must return the surrendered firearm, ammunition, or permit, as requested by a respondent only after confirming through a background check that the respondent is currently eligible to own or possess firearms and ammunition under federal and state law and after confirming with the court that the school safety protection order has been vacated or has ended without extension.

(b) If a school safety protection order is vacated or ends without extension, then the department of safety, if the department has suspended a handgun carry permit issued under § 39-17-1351 or § 39-17-1366 pursuant to the entry of a school safety protection order under § 49-6-2704, must reinstate the permit, but only after confirming that the respondent is currently eligible to have a handgun carry permit issued under § 39-17-1351 or § 39-17-1366.

(c) A law enforcement agency must provide notice to any family or household members of the respondent before returning any surrendered firearm and ammunition owned by the respondent.

(d) Any firearm and ammunition surrendered by a respondent pursuant to § 49-6-2705 that remains unclaimed by the lawful owner for one (1) year after an order to vacate the school safety protection order must be disposed of pursuant to § 39-17-1317.

**49-6-2707. Reporting the issuance of a protection order.**

(a) Within twenty-four (24) hours after issuance of an order pursuant to § 49-6-2704, the clerk of the court shall enter any school safety protection order or temporary ex parte school safety protection order into the uniform case reporting system.

(b) Within twenty-four (24) hours after issuance, the clerk of the court shall forward a copy of an order issued pursuant to § 49-6-2704 to the appropriate law enforcement agency specified in the order. Upon receipt of the copy of the order, the

law enforcement agency shall enter the order into the national crime information center and similar state databases. The order must remain in each system for the period stated in the order, and the law enforcement agency may only remove an order from the systems which has ended or has been vacated. Entry of the order into the national crime information center and similar state databases constitutes notice to all law enforcement agencies of the existence of the order. The order is fully enforceable in any county in this state.

(c) The issuing court shall, within three (3) business days after issuance of a school safety protection order or temporary ex parte school safety protection order, forward all available identifying information concerning the respondent, along with the date of order issuance, to the department of safety. Upon receipt of the information, the department shall determine if the respondent has a handgun carry permit issued pursuant to § 39-17-1351 or § 39-17-1366. If the respondent has a handgun carry permit, then the department must immediately suspend the permit.

(d) If a school safety protection order is vacated before its end date, the clerk of the court shall, on the day of the order to vacate, forward a copy of the order to the department of safety and the appropriate law enforcement agency specified in the order to vacate. Upon receipt of the order, the law enforcement agency shall promptly remove the order from any computer-based system in which it was entered pursuant to subsection (b).

**49-6-2708. Effect of protection order on law enforcement search and seizure.**

The surrender of a firearm or ammunition pursuant to § 49-6-2705 does not affect the ability of a law enforcement officer to remove a firearm or ammunition or handgun carry permit from any person or to conduct any search and seizure for firearms or ammunition pursuant to other lawful authority.

**49-6-2709. Civil or criminal liability related to protection orders.**

There is no criminal or civil liability on any person or entity for acts or omissions related to obtaining a school safety protection order or temporary ex parte school safety protection order, including, but not limited to, providing notice to the petitioner, a family or household member of the respondent, and any known third party who may be at risk of violence or failure to provide such notice, or reporting, declining to report, investigating, declining to investigate, filing, or declining to file, a petition pursuant to § 49-6-2704.

SECTION 6. This act takes effect upon becoming a law, the public welfare requiring it.